

STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

IN THE MATTER OF:

First American Financial Group, Inc.,))	EMERGENCY CEASE
)	AND DESIST ORDER
1600 Highland Drive)	Investigation File No.126057
Amory, MS 38821.)	
)	
_____)	

Upon application of David E. Belton, Esquire, Senior Associate General Counsel for the South Carolina Department of Insurance, satisfactory evidence has been presented that the above-captioned person has been engaged in the unauthorized business of insurance or have been committing unfair or deceptive acts or practices by selling, issuing or administering insurance policies warranting the issuance of this emergency cease and desist order. *See* S.C. Code Ann. § 38-25-315 (2002).

The Respondent is First American Financial Group, Inc. (First American), a non-licensed and non-incorporated entity in South Carolina engaged in the business of selling insurance policies related to workers' compensation and employer liability insurance coverages to Culp Petroleum and Culp Transportation of Rock Hill, South Carolina. Culp Petroleum and Culp Transportation retained broker MIMS International (MIMS) to secure workers' compensation and employers liability insurance. MIMS secured the services of First American, and First American secured the services of Appalachian Underwriters who placed the coverage with GE Commercial Insurance. However, it was determined that First American is not a licensed South Carolina entity. First American is located at 1600 Highland Drive, Amory, MS 38821. South Carolina law provides that a contract on lives, property or interests in this state is subject to South Carolina laws. *See* S.C. Code Ann. § 38-61-10 *et. seq.* (2002)

Section 38-25-315 provides that the Director of Insurance may issue a cease and desist order whenever the director, from evidence that is satisfactory to her, has reasonable grounds to believe that a person has engaged in, or is about to engage in, the transaction of insurance business in violation of this chapter and that transaction of insurance business will adversely impact upon public health, public safety, or public welfare. The Director believes that counsel's application meets the requirements of S.C. Code Ann. § 38-25-315 (2002) for the issuance of an emergency cease and desist order. Accordingly, I find and conclude as follows:

1. First American is not authorized to transact the business of insurance within the State of South Carolina. It holds no license issued by this Department and does

not fall within any exemption from the licensure requirements of this state. *See* S.C. Code Ann. §§ 38-5-10 (2002) and 38-25-160 (2002).

2. Section 38-25-110 defines “insurer” as all corporations, associations, partnerships and individuals engaged in the business of insurance. Respondent sold workers’ compensation and employer liability insurance products to businesses within this state.
3. Because Respondent is not authorized by law to do business insuring or administering risks in this state or to act as agents for the insurance being provided, South Carolina businesses who have purchased policies from or through the Respondent face serious risk of loss.
4. Authorized insurers are placed at an unfair disadvantage by having to compete with an unauthorized insurer.
5. The Respondent has failed to present evidence that any of the insurance products they offer, administer or insure qualify for any exemption from state regulation.
6. Respondent is engaged in the unauthorized transaction of insurance business in violation S.C. Code Ann. § 38-25-110 (2002), as defined in S.C. Code Ann. § 38-25-110, and is committing unfair acts in violation of S.C. Code Ann. § 38-57-30 (2002). Such conduct by Respondent is fraudulent, hazardous, creates an immediate danger to public safety and is causing or can be reasonably expected to cause public injury that is likely to occur at any moment, is incapable of being repaired or rectified. Further, such conduct is designed to evade the insurance laws of the State of South Carolina and must be immediately stopped and enjoined.
7. Unless a formal cease and desist order is issued, Respondent will continue to commit such unfair or deceptive acts or practices and engage in the business of insurance in South Carolina in an unauthorized and hazardous manner. The Department has previously instructed the Respondent to cease and desist from engaging in the business of insurance in this state.
8. The Director has authority and jurisdiction over this matter pursuant to S.C. Code Ann. § 38-5-10 *et seq.* (2002) and S.C. Code Ann. § 38-25-315 (2002).

IT IS THEREFORE ORDERED that Respondent, its agents, employees, and/or other representatives, shall immediately cease and desist from doing the following:

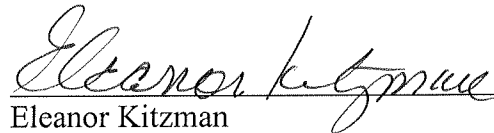
1. Taking any actions concerning funds which have been collected, received or derived in the course of the unauthorized business of insurance in or from South Carolina or South Carolina citizens or the commingling of such funds, except as directed by the South Carolina Department of Insurance.

2. Permitting or allowing any third party to take any actions concerning funds which have been collected, received or derived in the course of the unauthorized business of insurance in or from South Carolina or the commingling of such funds, except as directed by the South Carolina Department of Insurance.
3. The making of or proposing to make, an insurer or other licensee of this Department, an insurance contract without first having obtained a certificate of authority or license from the South Carolina Department of Insurance authorizing the person to transact the business of insurance.
4. The taking or receiving of any application of insurance, other than by a licensed insurance agent acting on behalf of an insurer
5. The making of or proposing to make, as an insurer, an insurance contract.
6. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.
7. The taking or receiving of any application for insurance.
8. The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof.
9. The issuance or delivery of contracts of insurance to residents of this State or to persons authorized to do business in this State.
10. Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another, any person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters after effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this State. This section does not prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of their employer.
11. The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance.

12. The transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the insurance laws of this State.
13. Solicitation, negotiation, dissemination of information as to coverage or rates, forwarding of applications, or delivery of policies or contracts as it relates to insurance products related to the paintball game industry.
14. Making, publishing, disseminating, circulating or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his or her insurance business which is untrue, deceptive or misleading.
15. The doing of any kind of insurance business in or from South Carolina specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance, except as authorized to do so through a license or certificate of authority issued by the Department of Insurance, except as authorized by law; and
16. The doing or proposing to do any business in South Carolina in substance equivalent to the transaction of insurance business in a manner designed to evade the provisions of South Carolina statutes.

IT IS FURTHER ORDERED that this Order is effective immediately and shall continue in force and effect until further order of the Director of Insurance. This Order is binding on Respondent, their agents, employees, and/or representatives.

PURSUANT TO S.C. CODE ANN. § 38-25-315, ANY PERSON AFFECTED BY THIS ORDER AND WHO SEEKS TO CONTEST IT HAS THE RIGHT TO REQUEST A HEARING BEFORE THE ADMINISTRATIVE LAW COURT, OR HIS DULY APPOINTED REPRESENTATIVE, TO SHOW CAUSE WHY THIS ORDER SHOULD NOT BE MADE PERMANENT. THE PERSON AFFECTED MUST MAKE THE REQUEST NOT LATER THAN THE 10TH DAY AFTER THE DATE ON WHICH THE PERSON RECEIVES THIS ORDER. THE REQUEST MUST BE IN WRITING DIRECTED TO THE ADMINISTRATIVE LAW JUDGE DIVISION AND MUST STATE THE GROUNDS FOR THE REQUEST TO SET ASIDE OR MODIFY THE ORDER. PENDING HEARING, THIS ORDER SHALL CONTINUE IN FULL FORCE AND EFFECT UNLESS STAYED BY THE DIRECTOR. ANY SUCH HEARING SHALL BE CONDUCTED ACCORDING TO THE PROCEDURES FOR CONTESTED CASES UNDER THE SOUTH CAROLINA ADMINISTRATIVE PROCEDURES ACT.


Eleanor Kitzman
Director of Insurance

Dated this 24th day of September 2005.